



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

52

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,136	02/01/2002	Leonard C. Fisher	ICEP:102_US_	2515
24041	7590	06/30/2004	EXAMINER	
SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406			RADA, ALEX P	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/062,136

Applicant(s)

FISHER ET AL.

Examiner

Alex P. Rada

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 19-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

In response to the amendment filed March 25, 2004 in which the applicant cancels claim 18, amends claims 1-2 and 26-27, and claims 1-17 and 19-30 are pending in this office action.

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features of claims 19 and 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-17 and 19-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification as originally filed does not disclose how a device used for determining the mass of a prize/object as recited in claim 1.

The specification also does not disclose how a device is used for measuring the size and electrical properties of the at least one prize as recited in claims 19-20.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 1-17 and 19-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the phrase, “means for securing at least one prize/object arranged on a platform” is vague and indefinite because what applicant considers the language of a means for securing an object on a platform cannot be determined. The same language also appears in claims independent claims 26 and 29.

Art Unit: 3714

Claim 1 recites the limitation "the mass" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 26 recites the limitation "the weight" in line 3. There is insufficient antecedent basis for this limitation in the claim. The same is true for claim 29 in line 4.

*Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3, 6-8, 11, 13, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Wadell '212.

8. Wadell disclose the following:

A means for securing at least one object arranged on a platform (figure 3) and a device (17) for determining the mass (weight) of the object as recited in claims 1 and 26.

The device (17) is a scale, in which the examiner interprets load cell (17) to be a functional equivalent a scale adapted to determine the weight of the at least one object as recited in claim 2.

A means from determining the at least one object is within a predetermined weight range (column 3, line33-38) as recited in claim 3.

The means for securing is a crane (figure 3) as recited in claim 6.

The crane having a gantry, crane, and claw assembly all operatively arranged for movement (figure 3) as recited in claim 7

The gantry and crane assembly is operatively arranged for translational movement (figure 3) as recited in claims 8 and 11.

The claw assembly is operatively arranged for vertical movement (figure 3) as recited in claim 13.

*Claim Rejections - 35 USC § 103*

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 9-10, 12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wadell '212 in view of Shoemaker '487.

11. Wadell discloses the claimed invention as discussed above except for the following:

The gantry assembly is operative arranged for translational movement along a first pair of parallel disposed rails as recited in claim 9.

The gantry assembly having a second pair of parallel disposed rails as recited in claim 10.

The securing means controllable by a player via a control means as recited in claim 14.

The control means having a joystick as recited in claim 15.

The control means having a trackball as recited in claim 16,

The control means having at least one push button as recited in claim 17.

Shoemaker teaches the following:

The gantry assembly is operative arranged for translational movement along a first pair of parallel disposed rails figure (figure 3) as recited in claim 9.

The gantry assembly having a second pair of parallel disposed rails (figure 3) as recited in claims 10 and 12.

The securing means controllable by a player via a control means as recited in claim 14.

The control means having a joystick (210) as recited in claim 15.

The control means having at least one push button (column 4, lines 9-16) as recited in claim 17. By having a gantry arranged for translations movement along a first and second parallel disposed rails and a joystick, one of ordinary skill in the art would provide an amusement game that has a wide range of movement to achieve a prize based on player's skill.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Wadell to include gantry assembly having a second pair of parallel disposed rails, a controller controllable by a player via a control by means of a joystick, and at least one push button as taught by shoemaker to provide an amusement game that has a wide range of movement to achieve a prize based on player's skill.

At the time the invention was made, it would have been an obvious design choice to a person of ordinary skill in the art to a trackball because Applicant has

Art Unit: 3714

not disclosed that having a trackball as recited in claim 16 provides an advantage or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the teachings of any type of conventional control means as taught by Shoemaker because they provide the same function as any other type of conventional controller operated by a user.

*Allowable Subject Matter*

12. Claims 4-5, 21-25, 27-28, and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claim 29 appears to encompass allowable subject matter, as best as presently understood, if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first and/or second paragraph set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

14. Applicant's arguments with respect to claims 1-17 and 19-30 have been considered but are moot in view of the new ground(s) of rejection.



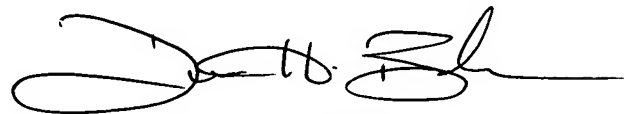
*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary, Jessica Harrison can be reached on 703-308-2217. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

APR



**DERRIS H. BANKS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**